IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO. 1004 OF 2005
IN
NOTICE OF MOTION NO.2448 OF 2005
IN
SUIT NO.309 OF 2005

1. Resham Resha Private Limited & ors. Appellants
vs.
1. Dilip Balkrishna Shety & ors. Respondents

Mr. Anil Menon for the appellant.

Ms.M.V.Thakkar for the respondent nos.1 and 2.

Ms.Anjali Chandurkar i/b.M/s.Purnanand & Co. for the respondents 5 and 6.

**CORAM : R.M. LODHA &**
**D.G. KARNIK, JJ**.

**DATED : 25th November 2005**

**P.C.**

Heard.

2. We are informed by the learned counsel for the respondents 1 and 2 that the subject shares are already in the custody of the Criminal Court. In this view of the matter, it is obvious that none of the defendants including the defendants 1 and 2 can presently deal with the said shares much less sell the said shares. As a matter of fact, the notice of motion taken out by the present appellants (original plaintiffs) for appointment of Receiver when the property is already in the custody

of Criminal Court was wholly misconceived. In this backdrop, we do not intend to go into the merits of the impugned order. Suffice it to say that the notice of motion taken out by the original plaintiffs was misconceived. As and when the Criminal Court passes an order for release of the subject shares, it will be open to the plaintiffs to make an appropriate application for interim reliefs. In that event such application shall be considered by the Court in accordance with the law uninfluenced by the impugned order.

3. With the aforesaid observations, the appeal is dismissed in limine.

**(R.M.LODHA, J.)**

**(D. G. KARNIK, J.)**